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ch. 238, § 31. *Held*, that no injunction will be granted. *Baxter Tel. Co. v. Cherokee County Mut. Tel. Ass'n*, 146 Pac. 324 (Kan.).

Where a public franchise is set up as a defense to *prima facie* tortious conduct, its validity may be challenged by the plaintiff, even though a private individual. *Smith v. Warden*, 86 Mo. 382; *Vredenburgh v. Behan*, 33 La. Ann. 627. But in the principal case the defendant's act in stringing competing wires was not *per se* tortious, for the plaintiff's franchise was not exclusive. As the mere usurpation of a public privilege could not without more constitute a private wrong to the plaintiff, the result seems clearly correct. *Jersey City Gas Light Co. v. Consumers' Gas Co.*, 40 N. J. Eq. 427; *Coffeyville Gas, etc. Co. v. Citizens' Natural Gas, etc. Co.*, 55 Kan. 173, 40 Pac. 326. Cf. *Cope v. District Fair Ass'n*, 99 Ill. 489.

FRAUDULENT CONVEYANCES — TRANSFERS FOR VALUE — CONVEYANCE IN SATISFACTION OF UNENFORCEABLE EXPRESS TRUST. — A testator was induced not to change a will leaving property to A, by A's promise to give half the property to B. A later transferred to B land equal in value to half of the property received under the will. This transfer made A insolvent, and his creditors bring this action to have it set aside as fraudulent. *Held*, that the conveyance will not be set aside. *Walter Farrington Tiling Co. v. Hazen*, 151 N. Y. Supp. 523 (App. Div.).

A *bona fide* conveyance by an insolvent debtor in preference of a creditor who has an enforceable legal or equitable claim against him cannot be set aside as in fraud of creditors. WAIT, **FRAUDULENT CONVEYANCES**, 3 ed. § 390; *Glover v. Lee*, 140 Ill. 102, 29 N. E. 680; *Atlantic National Bank v. Taverner*, 130 Mass. 407. A mere moral obligation, however, is not sufficient to support such a conveyance. *Fair Haven Marble & M. S. Co. v. Owens*, 69 Vt. 246, 37 Atl. 749; *Cock v. Oakley*, 50 Miss. 628. But a conveyance in satisfaction of an unenforceable trust or in settlement of a debt barred by the statute of limitations or the statute of frauds, cannot be attacked by creditors on the ground that the debtor could have set up an unconscionable defense, for the law regards such obligations as subsisting though the remedy is barred. *French v. Motley*, 63 Me. 326; *Silvers v. Potter*, 48 N. J. Eq. 539, 22 Atl. 584; *Norton v. Mallory*, 63 N. Y. 434. See 13 HARV. L. REV. 608. Cf. *Holden v. Banes*, 140 Pa. 63, 21 Atl. 239. The decision of the principal case is based on this last proposition. In fact, however, it seems that the conveyance was in satisfaction of a perfectly valid equitable obligation; for where a testator is prevented from revoking a gift in his will by the promise of the beneficiary to hold it for another, the beneficiary becomes liable in equity as constructive trustee of the property received. *Dowd v. Tucker*, 41 Conn. 197; *Belknap v. Tillotson*, 82 N. J. Eq. 271, 88 Atl. 841. See 28 HARV. L. REV. 237, 379. And if, as the principal case seems to indicate, the estate conveyed represented the proceeds of the bequest, the trust attached to this very property. On this hypothesis, the result of the principal case is more easily reached as property subject to a constructive trust is not subject to the claims of creditors. *Cox v. Arnsmann*, 76 Ind. 210. See POMEROY, *EQUITY JUR.*, 3 ed., §§ 721, n. 1, 1053.

INTERSTATE COMMERCE — INTERSTATE COMMERCE COMMISSION — JURISDICTION OF STATE COURT OVER SUIT AGAINST INTERSTATE CARRIER WITHOUT PRIOR ACTION BY THE COMMISSION. — The railroad had established certain rules governing car distribution among coal companies for interstate shipments during periods of car shortage. The plaintiff brings suit in a state court complaining that the railroad failed to furnish the quota which, according to these rules, it should have received. *Held*, that the state court has jurisdiction. *Pennsylvania R. Co. v. Puritan Mining Co.*, 237 U. S. 121.